



WISCONSIN DEPARTMENT OF NATURAL RESOURCES
WETLAND GENERAL PERMIT
FOR CITY OF SUPERIOR SPECIAL AREA MANAGEMENT PLAN

Permittee: The General Public in Wisconsin

Permit No. WDNR-GP8-2013

Issuing Office: Waterways and Wetlands Section, Bureau of Watershed Management,
Wisconsin Department of Natural Resources (Department)

Issuance Date:

Expiration Date: _____, 2018 or until the U.S. Army Corps of Engineers General Permits 96-06788-GP-SDE, 96-06789/06790-GP-SDE, 96-06791-GP-SDE, 96-06792-GP-SDE, expire, whichever is earlier.

GENERAL PERMIT AUTHORIZATIONS: In compliance with the provision(s) of section 281.36 (3b)(b), Wis. Stats., no person may discharge/place dredged or fill material into a wetland unless the discharge is authorized by a wetland general permit or individual permit issued by the Department of Natural Resources (Department) or the discharge is exempt by statute. The Department has authority to issue general permits under s. 281.36(3g), Wis. Stats. Sections 281.36 (3g)(b), Wis. Stats., authorize any person in the State of Wisconsin to perform work in accordance with the terms and conditions of the general permit specified below, after satisfying all applicable permit terms and conditions. Please refer to the following sections of this permit for the specific eligibility standards, waiver requirements, certification requirements and responsibilities, conditions, findings of fact, conclusions of law, and definitions required by WDNR-GP8-2013.

OTHER AUTHORIZATIONS NECESSARY: WDNR-GP8-2013 authorizations are subject to all applicable terms and conditions specified in this permit. However, **WDNR-GP8-2013 authorizations are provisional and require that project proponents obtain any other local, state or federal permits before any work may proceed.** U.S. Army Corps of Engineers wetland permits are required for discharges to federal wetlands.

PROJECT DESCRIPTION AND LOCATION: WDNR-GP8-2013 applies to certain discharges of dredged and/or fill material into wetlands within the geographical area identified in the City of Superior Special Area Management Plan Technical, Implementation and Administration Document (SAMP II-TIA) dated August 8, 2008. The SAMP II-TIA identifies four categories of projects that will be available for this general permit, commercial or industrial, residential, institutional, or projects for public purposes. The general permit does not apply to proposed tribal activities located on Federal Indian Trust lands.

GENERAL PERMIT COVERAGE: After a complete submittal has been received by the designated office of the Department at the office, the effective date of coverage under this general permit is 20

calendar day for projects with less than or equal to 5 acres of impact or 30 calendar days for projects with more than 5 acres of impact, unless the applicant is notified by the Department to the contrary. **WDNR-GP8-2013 permit coverage is valid for 5 years after the date on which the discharge is considered to be authorized or until the discharge has been completed, whichever occurs first.** Therefore, permit coverage terminates unless another application is submitted to retain coverage under this permit or a reissued version of this permit.

State of Wisconsin Department of Natural Resources
For the Secretary

Pamela Biersach - Director
Bureau of Watershed Management

Date

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WDNR-GP1-2012 TERMS AND CONDITIONS

The following sections describe the general permit authorization procedures implemented by the DNR in WDNR-GP8-2013. Projects must meet all the terms and conditions of this permit to be eligible for coverage under WDNR-GP8-2013.

NOTE: The term "you" and its derivatives, as used in this general permit, means the permittee, which is the landowner. The term "the Department" or "this office" refers to the appropriate Wisconsin Department of Natural Resources (DNR) Service Center, DNR Region or Central Office headquarters of the Wisconsin DNR having jurisdiction over the authorized activity or the appropriate official of that office acting under the authority of the Secretary of the Department.

SECTION 1 – WDNR-GP8-2013 ELIGIBILITY CRITERIA

The project must meet **all** of the following standards to be eligible for coverage under this general permit. Persons proposing to do work should note that Section 281.36 (3g)(h), Wis. Stats. requires applicants to demonstrate that adverse impacts to wetlands functions and values have been avoided and minimized to the maximum extent practicable.

NOTE: Projects that do not meet all standards below are not eligible for this general permit and are therefore excluded from coverage under WDNR-GP8-2013. In these cases, persons may apply for an individual permit as outlined in s. 281.36(3m), Wis. Stats. The department also has authority under s. 281.36(3g)(i), Wis. Stats. to require an individual permit in lieu of a general permit, if the department has determined that conditions specific to the site require additional restrictions on the discharge to provide reasonable assurance that no significant adverse impacts to wetland functional values will occur.

1. Project purpose is to conduct construction activities to build or expand a residential, public,

institutional, commercial or industrial development associated with a single and complete project as defined in Section 7 of this general permit.

2. The purpose of the project is not to fill wetlands to create a buildable lot to be sold and/or developed at a later date.
3. The discharge shall be to a wetland area designated as eligible for discharge in the City of Superior under the federal general permits 96-06788-GP-SDE, 96-06789/06790-GP-SDE, 96-06791-GP-SDE, 96-06792-GP-SDE issued by the US. Army Corps of Engineers and in the City of Superior's Special Area Management Plan Technical, Implementation and Administration Document (SAMP II-TIA) dated August 8, 2008.
4. The project applicant is the landowner or easement holder or otherwise has legal authorization to proceed.
5. The discharge from the project does not affect (as defined in section 7) more than 10 acres of wetland as part of a single and complete project.
6. Projects authorized for coverage under this general permits shall comply with the permit conditions specified in the federal general permits 96-06788-GP-SDE, 96-06789/06790-GP-SDE, 96-06791-GP-SDE, 96-06792-GP-SDE, issued by the US. Army Corps of Engineers, and the City of Superior's Special Area Management Plan Technical, Implementation and Administration Document (SAMP II-TIA) dated August 8, 2008.
7. The proposed project cannot avoid wetland impacts.
8. The proposed project minimizes wetland impacts to the greatest extent practicable.
9. The discharge will cause only minimal adverse environmental effects.
10. The project will be constructed in a manner that will maintain wetland hydrology in the remaining wetland complex.
11. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act and/or State law or which is likely to destroy or adversely modify the critical habitat of a species as identified under the Federal Endangered Species Act.
12. The activity shall not result in significant adverse impacts to fishery spawning habitat, including obstruction of fish passage, or adversely affect bird breeding areas or substantially disrupts the movement of species that normally migrate from open water to upland or vice versa (i.e. amphibians, reptiles and mammals) as determined by the Department.
13. The activity will not result in adverse impacts to historical or cultural resources and will

comply with s. 44.40, Wisconsin Statutes as determined by the Department.

SECTION 2: WDNR-GP8-2013 REQUIREMENTS FOR COVERAGE

You are required to comply with the following application requirements:

1. After you have carefully confirmed the proposed discharge of dredged and/or fill material into wetland meets all of the terms and conditions of this permit you must submit a *complete application package*, to the City of Superior as identified by the SAMP II-TIA. The City shall ensure the application is complete and determine that the proposed activity conforms to the SAMP II and the terms of this permit. The City shall send a copy of the application package and a Pre-discharge Notification to the appropriate US Army Corps of Engineers and DNR offices.
2. For Pre-discharge Notifications that involve wetland impacts of less than or equal to 5 acres the Department will notify the City within 20 calendar days whether the project meets the terms and conditions of the general permit. For Pre-discharge Notifications that would involve wetland impacts greater than 5 acres the Department will notify the City within 30 calendar days whether the project meets the terms and conditions of the general permit. If a project meets the terms and conditions of the general permit the Department will send a letter to the City and applicant that it has waived the requirement that the applicant apply to the Department for a general permit and will not require the applicant to apply for an individual permit.
3. If the Department determines that the project does not qualify for the general permit, the Department will provide written justification to the City within the time periods specified in requirement 2., so that applicant may be advised of the additional information that is necessary to verify compliance with the terms and conditions of this permit.
4. As provided under s. 281.36 (3g)(i), Wis. Stats., the Department may determine the project is not eligible for this general permit and require the project be reviewed through the individual permit process outlined in s. 281.36(3m), Wis. Stats. If the Department determines your project is not eligible for this permit, you will be notified, within the timelines specified in requirement 2., after your complete application package is received by DNR.
5. If adverse weather conditions prevent the Department from conducting an accurate on-site inspection or assessing the potential for site-specific impacts during the 30 day application period, the Department shall give notice to the applicant of this condition and shall complete the inspection as soon as weather conditions permit.
6. A Pre-discharge notification shall include the application form supplied by the City of Superior and the following documentation:
 - a. Project plans that include final project design and construction and total acreage of wetland impact.
 - b. Maps of the project site. Information to include: most recent Soil Survey map, WI Wetland Inventory map, topographic map, floodplain information and Aerial Photographs. All maps must show clear directions to the project site with project and

property boundaries clearly labeled. The aerial photo shall also show the locations of all proposed wetland fill or discharge clearly labeled.

- c. Wetland delineation report unless the Department and applicant agree that a delineation is not necessary for a given site or area of impact.
- d. Documentation verifying project will not result in an adverse impact to federal or state threatened/endangered resources and/or cultural/historical resources. To request review of a proposed project the department recommends the applicant or City submit an ER review form, which may be found at <http://dnr.wi.gov/topic/ERReview/Review.html> and provide a copy of a determination that describes whether the project will result in adverse impacts to federal or state threatened/endangered resources and a commitment, by the landowner, to follow any recommendations to reduce the impacts.
- e. Detailed documentation that clearly demonstrates why the impact to the wetland cannot be avoided and how the impact to the wetland will be minimized Provide a copy of any materials submitted to the City or US Army Corps of Engineers for satisfying the federal general permit conditions including any mitigation documents.

SECTION 3: WDNR-GP8-2013 CERTIFICATION AND RESPONSIBILITIES

You certify and agree that upon submittal of a complete application package to DNR, the wetland project will be conducted in compliance with all the terms and conditions of WDNR-GP8-2013.

SECTION 4: WDNR-GP8-2013 GENERAL PERMIT CONDITIONS

The applicant agrees to comply with the following conditions:

1. **Pre-Discharge Notification.** You shall submit a complete pre-discharge notification to the Department as outlined in section 2 of this permit. If requested, you shall furnish the Department, within a reasonable timeframe, any information the department needs to verify compliance with the terms and conditions of this permit.
2. **Certification.** Acceptance of general permit WDNR-GP8-2013 and efforts to begin work on the activities authorized by this general permit signifies that you have certified the project meets all eligibility standards outlined in Section 1 of this permit and that you have read, understood and have agreed to follow all terms and conditions of this general permit.
3. **Reliance on Applicant's Data.** The determination by this office that a confirmation of authorization is not contrary to wetland water quality standards will be based upon the information provided by the applicant and any other information required by the DNR.
4. **Project Plans.** This permit does not authorize any work other than what is specifically described in the pre-discharge notification package and plans submitted to the Department and you certified is in compliance with the terms and conditions of WDNR-GP8-2013

5. **Expiration.** This general permit WDNR-GP8-2013 expires on ____, 2018 or until the U.S. Army Corps of Engineers General Permits 96-06788-GP-SDE, 96-06789/06790-GP-SDE, 96-06791-GP-SDE, 96-06792-GP-SDE, expire, whichever is earlier.
6. The time limit for completing work authorized by the provisions of WDNR-GP8-2013 ends 5 years after the date on which the discharge is considered to be authorized under WDNR-GP8-2013 or until the discharge is completed, whichever occurs first.
7. **Other Permit Requirements.** You are responsible for obtaining any other permit or approval that may be required for your project by local zoning ordinances, other local authority, other state permits and by the U.S. Army Corps of Engineers before starting your project.
8. **Authorization Distribution.** You must supply a copy of this general permit to every contractor working on the project.
9. **Project Start.** You shall notify the Department before starting construction.
10. **Permit Posting.** You must post a copy of this general permit coverage letter at a conspicuous location on the project site prior to the execution of the permitted activity, and remaining at least five days after stabilization of the area of permitted activity. You must also have a copy of the permit coverage letter and approved plan available at the project site at all times until the project is complete.
11. **Permit Compliance.** The department may modify or revoke coverage of this permit if it is not constructed in compliance with the terms and conditions of this permit, or if the Department determines the project will be detrimental to wetland water quality standards. Any act of noncompliance with this permit constitutes a permit violation and is grounds for enforcement action. Additionally, if any applicable conditions of this permit are found to be invalid or unenforceable, authorization for all activities to which that condition applies is denied.
12. **Construction Timing.** Once wetland work commences, all wetland construction activities must be continuous until the permitted activity is completed and the site is stabilized.
13. **Construction.** No other portion of the wetland may be disturbed beyond the area designated in the submitted plans. The project applicant shall not operate or stage equipment on wetlands not authorized for impacts by this general permit to prevent damage to vegetation, soil, or water resources in adjacent wetlands or surface water adjacent to the impact area that falls within the coverage of this general permit. Prior to initiating work, any adjacent wetlands that are to remain undisturbed shall be clearly marked so that the boundaries are visible to equipment operators using appropriate signage, orange construction fencing, silt fence or other approved method.
14. **Temporary Impacts.** For temporary impacts all fill shall be removed and the area restored to its original elevation and the applicant shall limit the establishment of invasive species by applying an approved native wetland seed mix.

15. **Project Completion.** Within one week of completion of the regulated activity, you shall submit to the Department a statement certifying the project is in compliance with all the terms and conditions of this permit, and photographs of the activities authorized by this permit. This statement must reference the Department-issued docket number, and be submitted to the Department staff member that authorized coverage.
16. **Proper Maintenance.** You must maintain the activity authorized by WDNR-GP8-2013 in good condition and in conformance with the terms and conditions of this permit utilizing best management practices. Any structure or fill authorized shall be properly maintained to ensure no additional impacts to the remaining wetlands.
17. **Site Access.** Upon reasonable notice, you shall allow access to the site to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance with the terms and conditions of WDNR-GP8-2013 and applicable laws.
18. **Erosion and siltation controls.** The project site shall implement erosion and sediment control measures that adequately control or prevent erosion, and prevent damage to wetlands as outlined in NR 151.11(6m), Wis. Adm. Code.
19. **Equipment use.** The equipment used in the wetlands must be low ground weight equipment as specified by the manufacturer specifications.
20. **Invasive Species.** All project equipment shall be decontaminated for removal of invasive species prior to and after each use on the project site by utilizing other best management practices to avoid the spread of invasive species as outlined in NR 40, Wis. Adm. Code. For more information, refer to <http://dnr.wi.gov/topic/Invasives/bmp.html>.
21. **Federal and State Threatened and Endangered Species.** WDNR-GP8-2013 does not affect the DNR's responsibility to insure that all authorizations comply with Section 7 of the Federal Endangered Species Act, s. 29.604, Wis. Stats and applicable State Laws. No DNR authorization under this permit will be granted for projects found not to comply with these Acts/laws. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act and/or State law or which is likely to destroy or adversely modify the critical habitat of a species as identified under the Federal Endangered Species Act.
22. **Special Concern Species.** If the Wisconsin National Heritage Inventory lists a known special concern species to be present in the project area you will take reasonable action to prevent significant adverse impacts or to enhance the habitat for the species of concern.
23. **Historic Properties and Cultural Resources.** WDNR-GP8-2013 does not affect the DNR's responsibility to insure that all authorizations comply with Section 106 of the National Historic Preservation Act and s. 44.40, Wis. Stats. No DNR authorization under this permit will be granted for projects found not to comply with these Acts/laws.

Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the State Historic Preservation Officer must be contacted for further instruction.

24. **Preventive Measures.** Measures must be adopted to prevent potential pollutants from entering a wetland or waterbody. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter a wetland or waterbody as a result of spillage, natural runoff, or flooding. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Duty Officer at **1-800-943-0003**.
25. **Suitable fill material.** All fill authorized under this permit must consist of clean suitable soil material, as defined by s. NR 500.03(214), Wis. Admin. Code, free from hazardous substances as defined by s. 289.01(11), Wis. Stats., and free from solid waste as defined by s. 289.01(11) and (33), Wis. Stats.
26. **Standard for Coverage.** Wetland impacts from the project will cause only minimal adverse environmental impacts as determined by the Department.
27. **Transfers.** Coverage under this permit is transferable to any person upon prior written approval of the transfer by the Department.
28. **Limits of State Liability.** In authorizing work, the State Government does not assume any liability, including for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the State in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this WDNR-GP8-2013.
29. **Reevaluation of Decision.** The Department may suspend, modify or revoke authorization of any previously authorized activity and may take enforcement action if the following occur:
 - a. The applicant fails to comply with the terms and conditions of WDNR-GP8-2013.
 - b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

SECTION 5: WDNR-GP8-2013 FINDINGS OF FACT

1. The Department has determined that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will cause only minimal adverse environmental impacts.
2. Pursuant to s. NR 299.04(1), Wis. Admin. Code, the Department has reasonable assurance that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will meet all applicable water quality standards.
3. The Department has determined pursuant to wetland water quality standards under s. NR 103.03, Wis. Admin. Code, and s. 281.36(3g)(d), Wis. Stats., that projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will only result in minimal adverse environmental effects.
4. This project meets the eligibility criteria and conditions of this general permit and is granted coverage under this general permit because it will not injure public rights or interests, or cause environmental pollution as defined in s. 299.01(4), Wis. Stats.
5. The Department and the applicant have completed all procedural requirements, and projects that meet the eligibility criteria and conditions and are granted coverage under this general permit will comply with all applicable requirements of WDNR-GP8-2013, s. 281.36(3g), Wis. Stats., and chapters NR 102, 103, 150, and 299, Wis. Admin. Code.
6. The City of Superior's pursuit for a SAMP is predicated, in part, by the unique geophysical characteristics of the land within its municipal boundaries. The City is located on an old glacial lakebed that consists of 200 feet of impermeable red clay covered with a thin layer of organic material. The soils combined with the lack of any relief in elevation, meaning generally flat topography, create a perched wetland. Currently the corporate limits of the City of Superior encompass approximately 45 square miles, 25% of the total land area of the city is wetland (7,420 acres) which represent approximately 86% of the developable land within the City. Given these rather limiting and unique circumstances, the City has worked with the Corps of Engineers (COE) and the Department to develop what is known as SAMP II.
7. The SAMP II and associated federal general permits, identifies existing wetlands within the boundaries of the SAMP II that have been pre-determined by the COE, WDNR and the City of Superior, to have low to medium wetland functional value that could be filled under the authority of the federal general permits and this general permit subject to compliance with the provisions of the SAMP II and compliance with the Federal General Permits and State Wetland General Permit authorizations.
8. The low to medium value wetlands are located in parts of Sections 9-16, 20-27 and 33-36 of Township 49 North, Range 14 West; Sections 19, 30-33 of Township 49 North, Range 13 West;

Sections 1-3 and 10 of Township 48 North, Range 14 West and Sections 4-6 of Township 48 North; Range 13 West City of Superior, Douglas County.

9. The SAMP II Federal General permits would allow the City of Superior to issue approvals for up to 140 acres of wetland fill in low to medium value wetlands in the City of Superior for a five year period from the year 2013 through 2018. The COE issued four General Permits for the Special Area Management Plan II 96-06788-GP-SDE, 96-06789/06790-GP-SDE, 96-06791-GP-SDE, 96-06792-GP-SDE. Those four permits coincide with 4 development categories: Commercial/Industrial developments, Residential developments, Public developments and Institutional developments. The Federal General Permits put limits on the amount of fill authorized over the entire 10 year period of the SAMP II Federal General Permits for each development category. If a category reaches the limit allowed in the federal general permit then that particular General Permit expires. The Federal General Permits allow Commercial/Industrial development of up to 75 acres, Residential development of up to 40 acres, Public development of up to 15 acres and Institutional development of up to 10 acres.
10. The City of Superior, Federal General Permits and this general permit would require project applicants to delineate wetlands, survey for endangered and threatened plants and avoid and minimize wetland impacts to the maximum extent practicable. The Federal General Permits require the City of Superior to provide compensatory mitigation for any authorized filled. Applicants may purchase compensatory mitigation credits through the City or may provide compensatory mitigation at other banks or sites if approved by the COE.

SECTION 6: WDNR-GP8-2013 CONCLUSIONS OF LAW

1. The Department has authority under s. 281.36(3g) Wis. Stats., to issue this general permit and pursuant to s. 281.36(3g)(h)4., Wis. Stats., the department may waive the requirement that a person apply to the Department for specific authorization to discharge fill material under a general permit .
2. The Department has complied with s. 1.11, Wis. Stats.

SECTION 7: WDNR-GP8-2013 DEFINITION OF TERMS

For the purposes of this general permit, you accept the following definitions:

1. Affect includes direct impacts and secondary impacts to wetlands. Direct impacts to wetlands are temporary or permanent placement of dredged or fill material into the wetland and secondary impacts mean impacts associated with any adverse impact on wetland functions such as watershed hydrology (e.g. segmenting a wetland complex, severing a portion of a complex, reduction in flood capacity, etc.).

2. Fill material has the meaning given in 33 CFR 323.2(e), and means material placed wetlands where the material has the effect of replacing any portion of a wetland with dry land; or changing the bottom elevation of any wetland. Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in a wetland. The term fill material does not include trash or garbage.
3. Invasive Plants are non-native or native plant species that invade natural plant communities and wild areas replacing desirable native vegetation. For a listing of common invasive plants found in Wisconsin visit DNR's website at <http://dnr.wi.gov/invasives/plants.asp>.
4. Pre-Discharge Notification means a completed and signed application to the City of Superior, the information specified in Section 2 of this permit and any other information which can reasonably be required from an applicant that the department needs to make a decision.
5. Single and complete project means the total project proposed by the project proponent. For example, if construction of a residential development affects several different wetland areas, the cumulative total of all impacted areas is the basis for deciding the project's total wetland impact. For "phased" developments, each phase may constitute a single and complete project if it has independent utility and would accomplish its intended purpose whether or not other phases were constructed.
6. Wetland has the meaning in s. 23.24, Wis. Stats., and means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wetland conditions as defined in statute.
7. Wetland Functional Values means the physical, chemical and biological process or attributes that occur in a wetland and the benefit society derives from certain functions as listed in s. NR 103.03(1), Wis. Adm. Code and include the following: (1) Floral Diversity; (2) Fish and Wildlife Habitat; (3) Flood Protection; (4) Water Quality Protection; (5) Shoreline Protection; (6) Groundwater Recharge and Discharge and (7) Aesthetics, Recreation, Education and Science.